

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ANGELES GONZALEZ,

Plaintiff,

v.

Case No. 14-C-961

**CAROLYN COLVIN,
Acting Commissioner of the
Social Security Administration,**

Defendant.

DECISION AND ORDER

Plaintiff-Claimant Angeles Gonzalez (“Gonzalez”), seeks leave to proceed *in forma pauperis* on the appeal from the denial of her application for social security disability insurance benefits. (ECF No. 2.) In order to authorize a litigant to proceed *in forma pauperis*, the Court must make two determinations: First, whether the litigant is unable to pay the costs of commencing this action; and, second, whether the action is frivolous or malicious. 28 U.S.C. §§ 1915(a) and (e)(2)(B)(i).

By her petition and affidavit to proceed *in forma pauperis*, Gonzalez avers that she is married. Gonzalez is not employed, however, her spouse is and earns \$2,000 per month. She indicates that she is financially responsible for supporting two

dependents.¹ The family owns two vehicles that are fully paid for – a 2000 Pontiac and a 2006 Ford Explorer. The two vehicles are worth \$7,500. They are buying a home worth \$180,000, with a \$132,000 mortgage. Gonzalez has \$1,200 in a savings account and \$249.00 in a 401k account and 37.50 in stock. Her monthly expenses total \$3,970, which significantly exceeds the monthly income for the household. Thus, the Court concludes, Gonzalez has satisfied the requirements of 28 U.S.C.

§ 1915(a) and is unable to pay the \$350 filing fee for this action.

Gonzalez must next demonstrate that this action has merit as required by 28 U.S.C. § 1915(e)(2)(B)(i). An action is frivolous if there is no arguable basis for relief either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)); *Casteel v. Pieschek*, 3 F.3d 1050, 1056 (7th Cir. 1993).

Under 42 U.S.C. § 405(g), a plaintiff may obtain review of the Social Security Commissioner's decision. The standard of review that the Court is to apply in reviewing the Commissioner's decision is whether the decision is supported by "substantial evidence." 42 U.S.C. § 405(g); *Jens v. Barnhart*, 347 F.3d 209, 212 (7th Cir. 2003).

The Complaint states that the Commissioner's decision regarding the denial of the application for social security disability benefits is not supported by substantial

¹ Gonzales indicates she is financially responsible for supporting her father and provides \$100 a month in support.


evidence, and/or is contrary to law. (*See* Compl. ¶ III(C).) (ECF No. 1.) At this preliminary stage of the proceedings, the Court concludes that there may be a basis in law or in fact for Gonzalez's appeal of the Commissioner's decision and the appeal may have merit, as defined by 28 U.S.C. § 1915(e)(2)(B)(i). Therefore, the Court grants Gonzalez's request to proceed *in forma pauperis*.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Gonzalez's petition for leave to proceed *in forma pauperis* (ECF No. 2) is **GRANTED.**

Dated at Milwaukee, Wisconsin, this 12th day of August, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge